

REMARKS

Claims 11 through 24 are pending in this application. Claims 1 through 10 were cancelled in a prior amendment. Claim 11 has been amended to clarify the features of the claimed method, and the amendments do not affect the scope of the claim.

Applicants respectfully submit that the Office Action has misidentified the Filing Date of the present application. The present application claims priority to PCT Application No. PCT/EP04/11861, which has a priority date of October 22, 2003. The United States National Phase was entered on April 21, 2006. Appropriate correction is requested.

Claims 11-24 have been rejected under 35 U.S.C. 102(b) as being anticipated by United States Patent No. 5,729,978, to Hiereth et al., hereinafter "Hiereth." Applicants respectfully traverse this rejection. Claim 11 is independent.

Claim 11 recites a method for optimizing the action of the engine brake in a drive unit in a motor vehicle. The method comprises the steps of, *inter alia*, operating the exhaust gas turbine at a first working point during a braking operation with the first working point having a maximum acceptable limiting speed $n_{\max-5}$ of the exhaust gas turbine with a minimum outputtable moment M_5 .

Hiereth discloses an internal combustion engine that has an exhaust gas turbocharger. The turbocharger has an exhaust gas turbine and a compressor. The exhaust gas turbine and the compressor are connected to a turbocharger shaft and an appliance for the transmission of power.

Applicants respectfully submit that the Office Action has misconstrued Hiereth. The Office Action cites the point n_M as the first working point of Hiereth. This point, however, clearly occurs during an acceleration of the engine of Hiereth, which is

inapposite to the requirement of claim 11 that the first working point be during a braking operation. Hiereth states that the emptying of the hydrodynamic coupling 6 begins at a speed n_E and ends at the speed n_M (col. 5, l. 18-21). This point n_M is identified by the Office Action as the first working point of claim 11. The emptying happens as the hydrodynamic coupling 6 is used to separate the engine from the exhaust gas turbocharger 2, so that the engine can change gears. This is all done during an acceleration of the engine, and Hiereth expressly states so (col. 5, l. 5-17). Again, claim 11 requires that such a working point be during a braking operation, and not at acceleration as in Hiereth.

Furthermore, the Office Action does not indicate where Hiereth discloses the minimum outputtable moment of the first working point, as required by claim 11. The Office Action cites a passage at col. 6, l. 12, of Hiereth, but does not show how this passage discloses the corresponding feature required in claim 11. Appropriate clarification is requested.

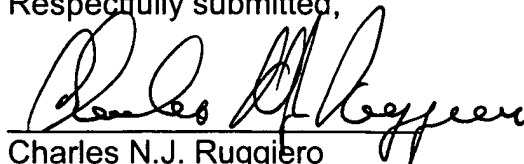
Thus, the Office Action has failed to show how Hiereth discloses significant features of claim 11. Claim 11 is clearly patentable over Hiereth under 35 U.S.C. 102(b). Claims 12-24 all depend from claim 11. For at least the reasons provided above in support of the patentability of claim 11, claims 12-24 are patentable over Hiereth as well.

Thus, the rejection of claim 11-24 under 35 U.S.C. 102(b) has been overcome. Applicants respectfully request that this rejection be reconsidered and withdrawn.

An indication of the allowability of all pending claims by issuance of a Notice of Allowability is earnestly solicited.

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Respectfully submitted,

A handwritten signature in black ink, appearing to read "Charles N.J. Ruggiero", written over a horizontal line.

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